

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
ANNA MARIA CAMPO,

Plaintiff,

-against -

AUTO GALLERY IMPORTS INC.
SAM KAYE and GM FINANCIAL,

Defendants.
-----X

Civil Action No.:
13-cv-6180 (JFB)(AKT)

ANSWER

J. Bianco,
M. Tomlinson

Defendant GM Financial ("GM Financial"), by its attorneys, SIMMONS JANNACE, LLP, as and for its Answer to plaintiff's Amended Verified Complaint ("Complaint"), responds as follows:

1. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph "1" of plaintiff's Complaint.
2. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph "2" of plaintiff's Complaint.
3. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph "3" of plaintiff's Complaint.
4. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph "4" of plaintiff's Complaint.
5. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph "5" of plaintiff's Complaint.

6. Denies the truth of the allegations contained in numbered paragraph “6” of plaintiff’s Complaint except admits defendant, GM Financial’s principal place of business is located at 801 Cherry Street, Suite 3500, Fort Worth, TX 76102. .

7. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “7” of plaintiff’s Complaint.

8. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “8” of plaintiff’s Complaint.

9. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “9” of plaintiff’s Complaint.

10. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “10” of plaintiff’s Complaint.

11. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “11” of plaintiff’s Complaint.

12. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “12” of plaintiff’s Complaint.

13. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “13” of plaintiff’s Complaint.

14. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “14” of plaintiff’s Complaint.

15. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “15” of plaintiff’s Complaint.

16. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “16” of plaintiff’s Complaint.

17. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “17” of plaintiff’s Complaint.

18. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “18” of plaintiff’s Complaint.

19. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “19” of plaintiff’s Complaint.

20. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “20” of plaintiff’s Complaint.

21. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “21” of plaintiff’s Complaint.

22. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “22” of plaintiff’s Complaint.

23. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “23” of plaintiff’s Complaint.

24. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “24” of plaintiff’s Complaint.

25. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “25” of plaintiff’s Complaint.

26. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “26” of plaintiff’s Complaint.

27. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “27” of plaintiff’s Complaint.

28. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “28” of plaintiff’s Complaint.

29. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “29” of plaintiff’s Complaint.

30. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “30” of plaintiff’s Complaint.

31. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “31” of plaintiff’s Complaint.

32. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “32” of plaintiff’s Complaint.

33. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “33” of plaintiff’s Complaint.

34. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “34” of plaintiff’s Complaint.

35. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “35” of plaintiff’s Complaint.

36. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “36” of plaintiff’s Complaint.

37. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “37” of plaintiff’s Complaint.

38. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “38” of plaintiff’s Complaint.

39. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “39” of plaintiff’s Complaint.

40. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “40” of plaintiff’s Complaint.

41. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “41” of plaintiff’s Complaint.

42. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “42” of plaintiff’s Complaint.

43. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “43” of plaintiff’s Complaint.

44. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “44” of plaintiff’s Complaint.

45. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “45” of plaintiff’s Complaint.

46. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “46” of plaintiff’s Complaint.

47. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “47” of plaintiff’s Complaint.

48. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “48” of plaintiff’s Complaint.

49. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “49” of plaintiff’s Complaint.

50. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “50” of plaintiff’s Complaint.

51. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “51” of plaintiff’s Complaint and specifically denies the truth of any and all allegations of fraud as they relate to answering defendant.

52. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “52” of plaintiff’s Complaint.

53. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “53” of plaintiff’s Complaint.

54. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “54” of plaintiff’s Complaint.

55. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “55” of plaintiff’s Complaint.

56. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “56” of plaintiff’s Complaint.

57. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “57” of plaintiff’s Complaint.

58. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “58” of plaintiff’s Complaint.

59. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “59” of plaintiff’s Complaint.

60. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “60” of plaintiff’s Complaint.

61. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “61” of plaintiff’s Complaint.

62. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “62” of plaintiff’s Complaint.

63. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “63” of plaintiff’s Complaint.

64. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “64” of plaintiff’s Complaint.

65. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “65” of plaintiff’s Complaint.

66. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “66” of plaintiff’s Complaint.

67. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “67” of plaintiff’s Complaint.

68. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “68” of plaintiff’s Complaint.

69. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “69” of plaintiff’s Complaint.

First Cause of Action
Fraud in the Inducement

70. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “70” of plaintiff’s Complaint.

71. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “71” of plaintiff’s Complaint.

72. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “72” of plaintiff’s Complaint.

73. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “73” of plaintiff’s Complaint.

74. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “74” of plaintiff’s Complaint.

75. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “75” of plaintiff’s Complaint and specifically denies the truth of any and all allegations of fraud as they relate to answering defendant.

76. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “76” of plaintiff’s Complaint.

77. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “77” of plaintiff’s Complaint and specifically denies the truth of any and all allegations of fraud as they relate to answering defendant.

78. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “78” of plaintiff’s Complaint and specifically denies the truth of any and all allegations of fraud as they relate to answering defendant.

79. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “79” of plaintiff’s Complaint and specifically denies the truth of any and all allegations of fraud as they relate to answering defendant.

80. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “80” of plaintiff’s Complaint and specifically denies the truth of any and all allegations of fraud as they relate to answering defendant.

81. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “81” of plaintiff’s Complaint.

82. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “82” of plaintiff’s Complaint.

83. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “83” of plaintiff’s Complaint.

Second Cause of Action
Promissory Estoppel

84. Repeats and realleges the answers to paragraphs “1” through “83” as if fully set forth herein.

85. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “85” of plaintiff’s Complaint.

86. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “86” of plaintiff’s Complaint.

87. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “87” of plaintiff’s Complaint.

88. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “88” of plaintiff’s Complaint.

89. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “89” of plaintiff’s Complaint and specifically deny the truth of any and all allegations as they relate to answering defendant.

90. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “90” of plaintiff’s Complaint.

Third Cause of Action
Deceptive Trade Practices under New York G.B.L. §349

91. Repeats and realleges the answers to paragraphs “1” through “90” as if fully set forth herein.

92. Denies the truth of the allegations contained in numbered paragraph “92” of plaintiff’s Complaint.

93. Denies the truth of the allegations contained in numbered paragraph “93” of plaintiff’s Complaint.

94. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “94” of plaintiff’s Complaint and specifically deny any and all allegations as they relate to answering defendant and admit that answering defendant did not receive payment for “points”.

95. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “95” of plaintiff’s Complaint.

96. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “96” of plaintiff’s Complaint and specifically refers all questions of law to the Court.

97. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “97” of plaintiff’s Complaint and denies the truth of any and all allegations as they relate to answering defendant.

98. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “98” of plaintiff’s Complaint.

99. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “99” of plaintiff’s Complaint and denies the truth of any and all allegations as they relate to answering defendant.

100. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “100” of plaintiff’s Complaint and denies the truth of any and all allegations as they relate to answering defendant.

101. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “101” of plaintiff’s Complaint, denies the truth of any and all allegations as they relate to answering defendant, and respectfully refers all questions of law to the Court.

102. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “102” of plaintiff’s Complaint, denies the truth of any and all allegations as they relate to answering defendant, and respectfully refers all questions of law to the Court.

Fourth Cause of Action
Deceptive Trade Practices under New York G.B.L. §349 – Part II

103. Repeats and realleges the answers to paragraphs “1” through “102” as if fully set forth herein.

104. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “104” of plaintiff’s Complaint and denies the truth of any and all allegations as they relate to answering defendant.

105. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “105” of plaintiff’s Complaint and denies the truth of any and all allegations as they relate to answering defendant.

106. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “106” of plaintiff’s Complaint and denies the truth of any and all allegations as they relate to answering defendant.

107. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “107” of plaintiff’s Complaint.

108. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “108” of plaintiff’s Complaint.

109. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “109” of plaintiff’s Complaint, denies the truth of any and all allegations as they relate to answering defendant and respectfully refers all questions of law to the Court.

110. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “110” of plaintiff’s Complaint and denies the truth of any and all allegations as they relate to answering defendant.

111. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “111” of plaintiff’s Complaint.

112. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “112” of plaintiff’s Complaint and denies the truth of any and all allegations as they relate to answering defendant.

113. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “113” of plaintiff’s Complaint and denies the truth of any and all allegations as they relate to answering defendant.

114. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “114” of plaintiff’s Complaint, denies the truth of any and all allegations as they relate to answering defendant, and respectfully refers all questions of law to the Court.

115. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “115” of plaintiff’s Complaint, denies the truth of any and all allegations as they relate to answering defendant, and respectfully refers all questions of law to the Court.

Fifth Cause of Action
Breach of Express Warranty
Pursuant to the Magnuson-Moss Warranty Act

116. Repeats and realleges the answers to paragraphs “1” through “115” as if fully set forth herein.

117. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “117” of plaintiff’s Complaint.

118. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “118” of plaintiff’s Complaint.

119. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “119” of plaintiff’s Complaint.

120. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “120” of plaintiff’s Complaint and denies the truth of any and all allegations as they relate to answering defendant.

121. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “121” of plaintiff’s Complaint.

122. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “122” of plaintiff’s Complaint.

123. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “123” of plaintiff’s Complaint.

124. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “124” of plaintiff’s Complaint and denies the truth of any and all allegations as they relate to answering defendant.

125. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “125” of plaintiff’s Complaint.

126. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “126” of plaintiff’s Complaint.

127. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “127” of plaintiff’s Complaint and denies the truth of any and all allegations as they relate to answering defendant.

128. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “128” of plaintiff’s Complaint.

129. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “129” of plaintiff’s Complaint.

130. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “130” of plaintiff’s Complaint.

131. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “131” of plaintiff’s Complaint.

132. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “132” of plaintiff’s Complaint and respectfully refers all questions of law to the Court.

133. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “133” of plaintiff’s Complaint and denies the truth of any and all allegations as they relate to answering defendant.

134. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “134” of plaintiff’s Complaint and respectfully refers all questions of law to the Court.

135. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “135” of plaintiff’s Complaint and denies the truth of any and all allegations as they relate to answering defendant.

136. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “136” of plaintiff’s Complaint and denies the truth of any and all allegations as they relate to answering defendant.

137. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “137” of plaintiff’s Complaint and denies the truth of any and all allegations as they relate to answering defendant.

Sixth Cause of Action
Breach of General Business Law §198-b
(Used Car “Lemon Law”)

138. Repeats and realleges the answers to paragraphs “1” through “137” as if fully set forth herein.

139. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “139” of plaintiff’s Complaint and denies the truth of any and all allegations as they relate to answering defendant.

Seventh Cause of Action
Breach of Implied Warranty
Pursuant to the Magnuson-Moss Warranty Act

140. Repeats and realleges the answers to paragraphs “1” through “139” as if fully set forth herein.

141. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “141” of plaintiff’s Complaint and respectfully refers all questions of law to the Court.

142. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “142” of plaintiff’s Complaint and denies the truth of any and all allegations as they relate to answering defendant.

143. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “143” of plaintiff’s Complaint, denies the truth of

any and all allegations as they relate to answering defendant and respectfully refers all questions of law to the Court.

144. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “144” of plaintiff’s Complaint, denies the truth of any and all allegations as they relate to answering defendant, and respectfully refers all questions of law to the Court.

145. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “145” of plaintiff’s Complaint.

146. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “146” of plaintiff’s Complaint, denies the truth of any and all allegations as they relate to answering defendant, and respectfully refers all questions of law to the Court.

147. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “148” of plaintiff’s Complaint and denies the truth of any and all allegations as they relate to answering defendant.

148. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “148” of plaintiff’s Complaint, denies truth of any and all allegations as they relate to answering defendant, and respectfully refers all questions of law to the Court.

149. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “149” of plaintiff’s Complaint, denies truth of any and all allegations as they relate to answering defendant, and respectfully refers all questions of law to the Court.

Eighth Cause of Action
Revocation of Acceptance Pursuant to §2310(d)
of the Magnuson-Moss Warranty Act

150. Repeats and realleges the answers to paragraphs “1” through “149” as if fully set forth herein.

151. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “151” of plaintiff’s Complaint.

152. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “152” of plaintiff’s Complaint and denies the truth of any and all allegations as they relate to answering defendant.

153. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “153” of plaintiff’s Complaint, denies the truth of any and all allegations as they relate to answering defendant, and respectfully refers all questions of law to the Court.

Ninth Cause of Action
Liability of GM FINANCIAL

154. Repeats and realleges the answers to paragraphs “1” through “153” as if fully set forth herein.

155. Denies the truth of the allegations contained in numbered paragraph “155” of plaintiff’s Complaint and respectfully refers all questions of law to the Court.

156. Denies the truth of the allegations contained in numbered paragraph “156” of plaintiff’s Complaint and respectfully refers all questions of law to the Court.

157. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “157” of plaintiff’s Complaint.

158. Denies the truth of the allegations contained in numbered paragraph “158” of plaintiff’s Complaint but admits the existence of an independent master dealer agreement and respectfully refers the Court to that document for its precise terms and conditions.

159. Denies the truth of the allegations contained in numbered paragraph “159” of plaintiff’s Complaint but admits the existence of an independent master dealer agreement and respectfully refers the Court to that document for its precise terms and conditions.

160. Denies the truth of the allegations contained in numbered paragraph “160” of plaintiff’s Complaint but admits making a preliminary approval subject to the verification of additional documents as described in the independent dealer agreement and respectfully refers the Court to that document for the precise terms and conditions of the initial approval.

161. Denies the truth of the allegations contained in numbered paragraph “161” of plaintiff’s Complaint and respectfully refers all questions of law to the Court.

Tenth Cause of Action
Intentional Infliction of Emotional Distress as Against Sam Kaye

162. Repeats and realleges the answers to paragraphs “1” through “161” as if fully set forth herein.

163. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “163” of plaintiff’s Complaint.

164. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “164” of plaintiff’s Complaint.

165. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “165” of plaintiff’s Complaint.

166. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “166” of plaintiff’s Complaint.

167. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “167” of plaintiff’s Complaint.

168. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “168” of plaintiff’s Complaint.

169. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “169” of plaintiff’s Complaint.

170. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “170” of plaintiff’s Complaint.

171. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “171” of plaintiff’s Complaint.

172. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “172” of plaintiff’s Complaint.

173. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “173” of plaintiff’s Complaint.

174. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “174” of plaintiff’s Complaint.

175. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “175” of plaintiff’s Complaint.

176. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “176” of plaintiff’s Complaint.

177. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “177” of plaintiff’s Complaint.

178. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “178” of plaintiff’s Complaint.

178. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “178” of plaintiff’s Complaint.

179. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “179” of plaintiff’s Complaint.

180. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “180” of plaintiff’s Complaint.

181. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “181” of plaintiff’s Complaint.

182. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “182” of plaintiff’s Complaint.

183. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “183” of plaintiff’s Complaint and denies the truth of any and all allegations as they relate to answering defendant.

Eleventh Cause of Action
Intentional Infliction of Emotional Distress as Against AGI

184. Repeats and realleges the answers to paragraphs “1” through “183” as if fully set forth herein.

185. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “185” of plaintiff’s Complaint.

186. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “186” of plaintiff’s Complaint and respectfully refers all questions of law to the Court.

187. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “187” of plaintiff’s Complaint and respectfully refers all questions of law to the Court.

188. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “188” of plaintiff’s Complaint.

189. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “189” of plaintiff’s Complaint.

190. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “190” of plaintiff’s Complaint.

191. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “191” of plaintiff’s Complaint.

192. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “192” of plaintiff’s Complaint.

193. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “193” of plaintiff’s Complaint.

194. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “194” of plaintiff’s Complaint.

195. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “195” of plaintiff’s Complaint.

196. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “196” of plaintiff’s Complaint.

197. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “197” of plaintiff’s Complaint.

198. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “198” of plaintiff’s Complaint.

199. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph “199” of plaintiff’s Complaint and specifically denies any and all allegations as they relate to answering defendant.

200. Denies plaintiff is entitled to the relief requested in the “WHEREFORE Clause”.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

201. Upon information and belief, the loss allegedly sustained by plaintiff was not a result of any culpable conduct by GM Financial, or in the alternative, the amount of damages otherwise recoverable shall be diminished in the percentage proportion of the culpable conduct of plaintiff, which contributed to or caused plaintiff’s alleged loss.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

202. The Complaint is barred, in whole or in part, by the recklessness, gross negligence, negligence, breaches of contractual duties and/or other culpable conduct of plaintiff and her agents, which conduct contributed directly to and caused the loss alleged in the Complaint. Accordingly, the amount of damages, if any, otherwise recoverable by plaintiff must be diminished in the proportion which the culpable conduct attributable to plaintiff and her agents bears to the other culpable conduct, if any, which allegedly caused the damages claimed by plaintiff in the Complaint.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

203. Upon information and belief, if plaintiff suffered the damages alleged in the Complaint, these damages were as a result of an independent superseding act by a third party for which GM Financial cannot be held liable, and GM Financial's conduct was in no way the proximate cause of such damages.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

204. The damages claimed by plaintiff against GM Financial were not proximately caused by any conduct of GM Financial. To the extent that plaintiff has not suffered any damages as a direct or proximate cause of GM Financial's actions or inactions, plaintiff may not recover any damages against GM Financial.

AS AND FOR AN FIFTH AFFIRMATIVE DEFENSE

205. Plaintiff's Complaint fails to state a cause of action.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE

206. Upon information and belief, this Court lacks jurisdiction over the subject matter of this action.

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE

207. Upon information and belief, plaintiff has not effectuated valid service, pursuant to the Federal Rules of Civil Procedure, and therefore, this Court lacks jurisdiction over GM Financial.

AS AND FOR AN EIGHTH AFFIRMATIVE DEFENSE

208. The Complaint is barred, in whole or in part, by the principles of waiver, ratification, res judicata and/or estoppel.

AS AND FOR A NINTH AFFIRMATIVE DEFENSE

209. If plaintiff suffered damages as alleged, then plaintiff failed to mitigate such damages.

AS AND FOR A TENTH AFFIRMATIVE DEFENSE

210. Plaintiff's claims are barred for failure to plead the alleged fraud with particularity.

AS AND FOR AN ELEVENTH AFFIRMATIVE DEFENSE

211. The Complaint is barred by the terms and conditions of the account agreement between plaintiff and GM Financial.

AS AND FOR A TWELFTH AFFIRMATIVE DEFENSE

212. Plaintiff's claims are barred by the Statute of Frauds.

AS AND FOR A THIRTEENTH AFFIRMATIVE DEFENSE

213. Upon information and belief, the rejection of goods was not made within a reasonable time after delivery or tender, and rejection is therefore ineffective.

AS AND FOR A FOURTEENTH AFFIRMATIVE DEFENSE

214. Upon information and belief, plaintiff cannot rely on an unstated defect to establish breach or justify rejection because the defect was easily ascertainable.

AS AND FOR A FIFTEENTH AFFIRMATIVE DEFENSE

215. Upon information and belief, the goods at issue were accepted by plaintiff.

AS AND FOR A SIXTEENTH AFFIRMATIVE DEFENSE

216. At all times relevant hereto, GM Financial acted in good faith and in a commercially reasonable manner.

AS AND FOR A SEVENTEENTH AFFIRMATIVE DEFENSE

217. To the extent that GM Financial is a holder in due course, it takes the instrument free from all claims and defenses under Uniform Commercial Code § 3-305.

AS AND FOR A EIGHTEENTH AFFIRMATIVE DEFENSE

218. The Complaint is barred, in whole or in part, by Uniform Commercial Code § 3-404.

AS AND FOR A NINETEENTH AFFIRMATIVE DEFENSE

219. Pursuant to Uniform Commercial Code § 3-419(3), plaintiff's damages, if any, are limited to the amount of the proceeds of the checks remaining in GM Financial's possession.

AS AND FOR A TWENTIETH AFFIRMATIVE DEFENSE

220. The Complaint is barred, in whole or in part, by the principle of laches.

AS AND FOR A TWENTY-FIRST AFFIRMATIVE DEFENSE

221. Upon information and belief, timely notice of the purported defect was not provided by plaintiff to GM Financial.

AS AND FOR A TWENTY-SECOND AFFIRMATIVE DEFENSE

222. Upon information and belief, the goods at issue were accepted by plaintiff with knowledge of the purported non-conformance.

AS AND FOR A TWENTY-THIRD AFFIRMATIVE DEFENSE

223. Plaintiff's demand for exemplary or punitive damages is barred because such damages are not recoverable or warranted in this action under New York law and the imposition of exemplary or punitive damages would be against public policy.

AS AND FOR A TWENTY-FOURTH AFFIRMATIVE DEFENSE

224. The Complaint is barred by parol evidence.

AS AND FOR A TWENTY-FIFTH AFFIRMATIVE DEFENSE

225. GM Financial is entitled to indemnification from co-defendant.

WHEREFORE, for all of the foregoing reasons, it is respectfully requested that plaintiff's Complaint be dismissed in its entirety, and that GM Financial be awarded the costs and disbursements of this action, reasonable attorneys' fees, and such other and further relief as this Court may deem just and proper.

Dated: Syosset, New York
December 17, 2013

Yours etc.,
SIMMONS JANNACE, LLP
Attorneys for Defendant
GM Financial

By: /s/ Stacey Ramis Nigro
Stacey Ramis Nigro (sn-0550)

Office & P.O. Address:
115 Eileen Way, Suite 103
Syosset, New York 11791
(516) 802-0630

TO: Lawrence C. Glynn
CARUSO GLYNN, LLC
Attorneys for Plaintiff
Office & P.O. Address
36 Peck Slip
New York, New York 10038
(718) 570-3338
File No.: 12.092613.01

Auto Gallery Imports, [nc.
500 Old Country Road
Westbury, NY I 1590

Sam Kaye
c/o Auto Gallery Imports, Inc.
500 Old Country Road
Westbury, NY 11590